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UPDATE

Senators advance lethal injection bill

Since the Nebraska Supreme Court ruled last year that electrocution, the sole method of execution authorized by Nebraska law, violated the state constitutional prohibition against inflicting cruel and unusual punishment, the state is left with no legal method for carrying out the death penalty.

After debate spanning two days, lawmakers advanced a bill May 19 that would adopt lethal injection as the state's method of execution.

LB36, proposed by Norfolk Sen. Mike Flood, would change the method of execution under Nebraska law to intravenous injection of a substance or substances in a quantity sufficient to cause death.

The bill would require the Department of Correctional Services to establish protocol for conducting lethal injection executions, including the selection of the lethal substance or substances to be used.

The bill also would provide members of the execution team protections from disciplinary actions by a licensing board as well as a level of confidentiality,



Sen. Mike Flood introduced a bill to adopt lethal injection as the state's method of execution.

unless extraordinary good cause were shown to a court.

The Judiciary Committee offered an amendment, adopted 34-4, which would subject the lethal injection protocol to the provisions of the Administrative Procedure Act. The amendment also would clarify that the identities of the execution team are confidential to the limits allowed under

the Nebraska Public Records Statutes and are not exempt from the Freedom of Information Act. At least two members of the media would be allowed to attend an execution.

While some senators offered proposals to change the judicial process involving the application of the death penalty, others supported repealing it all together.

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Fetal ultrasound bill advanced

Senators advanced a bill to final reading May 20 that would require a physician performing a fetal ultrasound prior to an abortion to display the image in a manner viewable by the patient before the procedure is performed.

Lincoln Sen. Tony Fulton, sponsor of LB675, said the regulation would provide women with more information to ensure that "so great a choice is well-informed." The physician would be under no obligation to describe the image and the woman would not be required to look at it, Fulton said.

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Early Adjournment

The legislative session will adjourn sine die **Friday, May 29**, the 87th legislative day.

A CLOSER LOOK.....

Senators advance lethal injection bill

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Avery: Require DNA or video evidence

Two senators offered amendments aimed at addressing the accuracy and fairness of the death penalty's application.

Lincoln Sen. Bill Avery offered an amendment to the committee amendment providing additional requirements for an offender to be eligible for capital punishment. Under his amendment, only convictions confirmed by DNA evidence, video confessions or a video of the crime being committed would be eligible for the death penalty.

"If we're going to have the death penalty, let's add a level of confidence that we're getting it right," Avery said. "Justice requires that. Morality requires that."

Flood opposed Avery's amendment, saying it displayed a fundamental "lack of faith in our courts." He said the current process included sufficient protections for the accused.

"There is simply not DNA evidence in every case," he said. "This is a fantasy you see on TV."

Flood explained that, in order for a person to be sentenced to death, a jury must find that the case contains aggravating circumstances that make it more extreme than other murders.

These can include a prior history of assault or murder, murder to conceal other crimes, murder for hire, the murder of a law enforcement officer or especially cruel details of the crime.

A panel of three judges then must determine if mitigating factors exist that would override the aggravating



Lincoln Sen. Bill Avery offered an amendment that would require DNA evidence, video confessions or a video of the crime being committed in order for an offender to be eligible for the death penalty.

factors. If not, they would review the case to be sure the penalty is consistent with other death sentences.

Avery's amendment to the committee amendment failed on a 7-31 vote.

Ewing Sen. Cap Dierks offered an amendment to the committee amendment that would require a public defender or appointed counsel to have been licensed to practice in Nebraska for at least five years in order to defend a capital offense case. His amendment also would require experience in defending capital cases.

Dierks said his amendment would ensure adequate legal representation for defendants facing the death penalty.

Flood opposed the amendment, saying the arbitrary five-year minimum could exclude some competent public defenders from serving.

"This isn't a problem in Nebraska," he said. "We have good lawyers in this state."

Omaha Sen. Scott Lautenbaugh agreed, calling the amendment "a solution in search of a problem."

Dierks later withdrew his amendment.

Council: Abolish the death penalty

Omaha Sen. Brenda Council said the problems with the death penalty cannot be addressed by any amendment.

"It's inherently arbitrary. It is inherently capricious. It is inherently discriminatory," she said.

Council offered an amendment that included provisions from LB306, which would abolish the death penalty and replace

it with a maximum sentence of life without possibility of parole and with order of restitution.

The amendment references a 1978 legislative study that found a "radical lack of uniformity" in how the death penalty is carried out.

Council said the death penalty is a burden on the justice system and the families and associates of both the victims and the convicted.

"There is no question that the death penalty in this state serves one purpose and that is to sanction revenge," she said.

Flood disagreed. The state has a right and a duty to impose the ultimate punishment for the worst offenders, he said, naming the shooting of seven people in a Norfolk bank as an example

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A CLOSER LOOK.....

of the most extreme crimes.

"Some crimes are so heinous and so grave that the only proportionate penalty is the death penalty," Flood said. "We must remember the victims, those left behind."

Lincoln Sen. Danielle Nantkes spoke in opposition to the death penalty. In light of the state's current inability to carry out executions, she said, passing LB36 would set Nebraska apart from the rest of the country.

"If we move forward with this bill, Nebraska will be the lone state to reinstate the death penalty," Nantkes said.

She raised several concerns about LB36, including the lack of defined protocol in the bill. The specifics of what drugs are to be used and who is to administer them is left to the discretion of the department, she said. Nantkes also raised concerns about the process outlined in the bill to determine competency of the convicted.

"It's hard to know whether Nebraska's protocol will even be able to be carried out," Nantkes said.

Tekamah Sen. Kent Rogert agreed.

"The only way to fix problems with the administration of the death penalty is to repeal it," he said.

But Lautenbaugh spoke in defense of the judicial system, noting that death penalty cases go through careful review.

"It's not too flawed to be fixed," he said.

Lexington Sen. John Wightman said, as a matter of common sense, that the death penalty deterred crime.

"If it saved one innocent life a year, even across the nation, that would be sufficient reason to retain the death penalty," he said.

Council's amendment failed on a 13-33 vote and LB36 advanced to select file 34-7. ■

Bill regulating fetal ultrasounds advanced

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As amended, the bill also would require the state Department of Health and Human Services to compile a comprehensive list of free ultrasound providers to be available to women considering an abortion.

Debate centered on an amendment offered by Lincoln Sen. Danielle Nantkes, which would exempt rape and incest victims from the provisions of the bill.

Calling the exemption "commonsense and humane," Nantkes said viewing the ultrasound image would be traumatic for victimized

women.

"I think it's an extreme position to not have an exception for women who find themselves in these circumstances," she said. "It's horrific to imagine that we would subject them to additional burden."

But Fulton opposed the amendment, calling it redundant and unnecessary because the bill does not require the patient to look at the ultrasound image.

"There are two lives that we are able to advocate for here," Fulton said. "The child doesn't know how the child was born."

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Sens. Danielle Nantkes (left) and Brenda Council confer during debate on a bill regulating fetal ultrasounds. Both senators spoke in opposition to the bill.

A CLOSER LOOK.....

Bill regulating fetal ultrasounds advanced

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Omaha Sen. Tom White offered an amendment to the Nantkes amendment, adopted 26-18, which would allow victims of rape and incest to view the ultrasound images if they requested to.

"We cannot treat women who are victims of rape or incest the same," White said.

Imperial Sen. Mark Christensen opposed the amendment, saying it would dilute the bill.

The Nantkes amendment failed on a 22-20 vote.

Malcolm Sen. Ken Haar offered an amendment that would exempt patients from the provisions of the bill if they make a written request prior to the ultrasound. Haar said his amendment would maintain the bill's informed consent intentions, while allowing more patient control.

"We need to trust women," Haar



Sen. Tony Fulton said LB675 would ensure that patients are well-informed.



Sen. Deb Fischer talks with Sen. Jeremy Nordquist, who offered an amendment that would require ultrasounds to be administered by registered nurses in order for a facility to be included on the department's list.

said. "If she says, 'I don't want to see it,' she should be respected."

Grand Island Sen. Mike Gloor opposed the amendment, saying it is unnecessary because health care providers will be respectful of their patients.

"We have clinics whose first priority is the woman's health," Gloor said. "They, as care providers, will have decency."

Haar's amendment failed on a 10-30 vote.

Omaha Sen. Jeremy Nordquist offered an amendment relating to the

department's list of free ultrasound providers. Under his amendment, ultrasounds would have to be administered by a registered nurse in order for the facility to be included on the list.

Nordquist said his amendment was a compromise based on a failed amendment Nantkes had offered on

general file, which would have required facilities to be licensed in order to be included on the list.

Nordquist's amendment was adopted 36-1 and LB675 advanced to final reading on a 38-6 vote. ■

"There are two lives that we are able to advocate for here."

-- Sen. Tony Fulton

ISSUES UPFRONT

Agriculture

State fair addendum approved

Grand Island will receive credit for recreational fields moved in preparation for the Nebraska State Fair under a bill approved 43-2 by the Legislature May 18.

LB224, introduced by Holdrege Sen. Tom Carlson, permits the city of Grand Island to apply to its \$8.5 million required contribution the \$1.5 million it expends in moving recreational facilities displaced by the fair.



Sen. Tom Carlson

Other provisions of the bill permit locating state fair facilities on property adjacent to the new fair site at Fonner Park and transferring a pari-mutuel tax credit from the Nebraska State Fairgrounds to Fonner Park. Under the credit, 2.5 percent of the first taxable \$70 million at each race held is allocated for maintenance and improvements at the fair site.

The bill also establishes Jan. 1, 2010, as the date for the transition of the state fair to its new host city. It requires that the state Department of Revenue provide notice of quarterly lottery collections to the city of Grand Island beginning April 1, 2010.

Senators pass statewide seed and fertilizer regulations

Cities and other political subdivisions must adhere to state seed and

fertilizer laws under a bill passed by the Legislature May 18.

LB263, introduced by Tekamah Sen. Kent Rogert, prohibits political subdivisions from regulating the registration, labeling or sale of seeds based upon the type, nature or genetic makeup of seeds. The bill also prohibits regulation of storage, transportation, distribution, registration, notification of use, labeling, planting or cultivation of seeds in addition to or in conflict with the Nebraska Seed Law.



Sen. Kent Rogert

The bill also bars cities and counties from regulating fertilizer and soil conditioners. Political subdivisions will not be allowed to regulate methods of storage, transportation, distribution, notification of use or use in addition to or in conflict with the Nebraska Commercial Fertilizer and Soil Conditioner Act.

LB263 neither restricts city and county zoning nor limits the authority of natural resources districts to enforce the Nebraska Ground Water Management and Protection Act.

LB263 passed 44-4.

Banking, Commerce & Insurance

NECHIP funding changes approved

Funding changes to the Nebraska Comprehensive Health Insurance Pool (NECHIP) Act were approved under a bill passed May 20.

NECHIP provides health insurance to Nebraska residents who are unable to obtain it at an affordable price or without restrictions because of a medical condition.

LB358, introduced by Omaha Sen. Rich Pahls, requires the CHIP board of directors to conduct an annual review to determine whether reimbursement rates are excessive and whether savings can be achieved by establishing the reimbursement rate as a multiplier of an objective standard.

Under the bill, people who apply for NECHIP based on eligibility other than that required by the Health Insurance Portability and Accountability Act will



Sen. Rich Pahls



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have to exhaust coverage under the COBRA health coverage program.

The bill passed on a 47-0 vote.

Unclaimed property bill approved

Lawmakers passed a bill May 20 seeking to assist the state treasurer in returning unclaimed property and protecting property owners' personal information.

Omaha Sen. John Nelson, sponsor of LB432, said the bill will help protect Nebraskans from fraud and identity theft.

Under the bill, the state is required to treat personal records of abandoned property owners, including social security number, date of birth and last known address, with the same confidentiality as tax return information held by the state Department of Revenue.

The bill caps the fee that professional finders may charge at 10 percent of the abandoned property's value. To claim a fee, a finder is required to disclose to the claimant in writing when the property was, or will be, abandoned and that the property can be claimed free of charge.

LB432 passed on a 47-0 vote.

Workers' compensation clean-up bill approved

Lawmakers gave final approval May 20 to a bill that modifies workers' compensation laws.

LB630, introduced by Omaha Sen. Steve Lathrop on behalf of the Ne-



Sen. John E. Nelson



Sen. Steve Lathrop

braska Workers' Compensation Court, makes several technical changes to the workers' compensation system, including:

- requiring acceptance by the court before electronic notice is considered given;
- clarifying that any settlement or agreement is voluntary and not final until approved by the court;
- allowing vocational rehabilitation counselors to submit disputes for informal dispute resolution;
- removing a requirement that a duplicate original application for lump sum settlement approval be presented to the court; and
- changing the reimbursement date to Jan. 1, 2011, for inpatient trauma services under the inpatient hospital fee schedule.

The bill was amended to incorporate provisions from two other bills.

LB194, sponsored by Lincoln Sen. Danielle Nantkes, allows lump sum settlements to become final without court approval if:

- the individual is not represented by counsel;
- the employee is a Medicare beneficiary or is eligible, or has a reasonable expectation of becoming eligible, within 30 months of the settlement;
- Medicaid will not be reimbursed or medical expenses will not be paid as part of the settlement; or
- the case involves death and payments will be made to dependents.

If a settlement does not require court approval, a release must be signed indicating that the employee understands their rights afforded under the Nebraska Workers' Compensation Act.

The bill also requires the employee or his or her dependent's representative, and the employee's attorney, to file a release confirming the settlement as a full and complete discharge from further liability.

LB453, sponsored by Tekamah Sen. Kent Rogert, requires that exempted agricultural employers notify employees that they are not covered by workers' compensation insurance either at the time of hiring or at any time more than 30 days prior to an injury.

Lawmakers passed LB630 on a 45-0 vote.

Education

Member added to safety advisory council

A bill passed 48-0 on May 20 adds an additional member to the Nebraska Safety Center Advisory Council.

LB299, introduced by Scottsbluff Sen. John Harms, extends the council's membership to include a fire safety representative. It further requires that all members have appropriate education, training and experience in the field of fire safety, industrial safety, recreational safety, domestic safety or traffic safety.



Sen. John Harms

Changes to learning community procedures approved

Senators passed a bill May 20 that makes technical changes to learning community procedures.

Created by legislation passed

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in 2007 and enacted in January, a learning community is a political subdivision that shares the territory of member school districts and is governed by a learning community coordinating council.

LB392, sponsored by York Sen. Greg Adams, requires a primary election for candidates running for the coordinating council. The deadline to establish elementary learning centers is delayed under the bill and nonvoting coordinating council members are authorized to participate in achievement sub-councils. The bill clarifies that funds resulting from levies set by the coordinating council go directly to school districts.

The bill also includes provisions from another bill.

LB221, sponsored by Omaha Sen. Jeremy Nordquist, allows school districts to use checks. Current law requires school districts to pay by warrant.

LB392 passed on a 47-0 vote.

Senators approve coordinating commission, scholarship changes

Senators passed a bill May 18 that makes changes to a diversity-based state scholarship program and post-secondary education construction regulations.

LB440, introduced by Omaha Sen. Brenda Council, removes the mention of race, ethnicity and culture from a diversity-based state



Sen. Greg Adams

scholarship program. The bill harmonizes the state's Student Diversity Scholarship Program Act with the state constitution, which was amended by voters last November to prohibit racial and gender preferences in public admissions and hiring decisions.

The bill also includes provisions from LB103, a bill introduced by York Sen. Greg Adams, that raises the cost threshold from \$500,000 to \$2 million for capital construction projects requiring approval from the Coordinating Commission of Postsecondary Education.

LB440 was passed on a 44-0 vote.

Immunization booster bill passes

Senators gave final approval May 21 to a bill that requires children entering seventh grade to have booster shots for diphtheria, pertussis and tetanus.

Under LB464, sponsored by Papillion Sen. Tim Gay, the timing of the booster coincides with a requirement that Nebraska children obtain a physical prior to entering seventh grade. As with other immunization requirements, diphtheria, pertussis and tetanus boosters can be waived for religious or medical reasons.

The bill passed on a 46-0 vote.

Funding reallocated for career education student organizations

Senators passed a bill May 18 that would provide state funding for career education student organizations.

LB476, introduced by Platte

Center Sen. Arnie Stuthman, creates the Center for Student Leadership and Extended Learning to provide state financial and administrative support for career

education student organizations. These organizations include FFA, Future Business Leaders of America, Family Career and Consumer Leaders of America, Distributive Education Clubs of America, SkillsUSA and Health Occupations Students of America.

As amended, LB476 repeals the Career Education Partnership Act, thereby freeing up the \$450,000 per year required by the bill.

LB476 passed on a 49-0 vote.



Sen. Arnie Stuthman

Executive Board

Parameters set for treasurer's web site

Responsibility for creating and maintaining a proposed Web site detailing state expenditures and receipts would be assigned to the state treasurer under an amendment adopted May 19.

As amended during general file, LB16 would mandate the development of a searchable Web site detailing state fund expenditures and tax receipts. The Executive Board would be responsible for reviewing and approving information on the site, including the:

- names and locations of those receiving or disbursing funds;
- amounts received or expended;
- funding or expending agency;
- budget program source; and



Sen. Tim Gay



Sen. Brenda Council

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- descriptions of each expenditure's purpose.

The bill's sponsor, Omaha Sen. Tom White, said the treasurer's current site provides data only on expenditures of \$500,000 or more. He said the bill would provide a comprehensive and neutral site for citizens to track how state dollars are spent.



Sen. Tom White

"I need that information [in order] to be a senator. The public needs that to be informed citizens," White said.

The bill as advanced from general file would direct the state treasurer to compile and maintain content for the Web site, unless he or she refused. In that case, the responsibility for the site would fall to the Clerk of the Legislature.

During select file debate, Omaha Sen. Mike Friend offered an amendment that would require the state treasurer to administer the site. Friend said the treasurer's office is the appropriate entity to handle the site. The treasurer has experience developing an expenditure site, he said, and the proposed site more closely reflects the treasurer's duties than those of the Executive Board.

White initially had reservations about the Friend amendment, which would relinquish Executive Board oversight of the Web site. He said the diverse composition of the Executive Board would prevent the site content from being manipulated for political benefit.

Omaha Sen. Beau McCoy offered an amendment to the Friend amendment that would prohibit the treasurer from including his or her

name, image or seal on the Web site. The amendment also would bar the treasurer from including a welcome message.

With the adoption of the McCoy amendment by a 39-0 vote, White said he could support the Friend amendment as a compromise.

Friend's amendment was adopted 43-0, and LB16 advanced to final reading on a voice vote.

The \$100,000 appropriation bill for LB16 was indefinitely postponed with a motion brought by Omaha Sen. Heath Mello. White said the additional funding is unnecessary.

General Affairs

Liquor licenses approved for culinary programs

Nebraska community colleges with culinary education programs are allowed to receive catering and Class I liquor licenses under a bill given final approval May 18.

LB232, sponsored by Omaha Sen. Jeremy Nordquist, allows alcohol sales only at events held by a culinary education program on a community college campus or at events catered by such a program as part of the program's requirements.

The bill passed 47-0 vote.



Sen. Jeremy Nordquist

Cemetery fund changes approved

Lawmakers gave final approval May 20 to a bill that changes provisions relating to municipal cemeter-

ies in Nebraska.

Under LB500, introduced by Wilber Sen. Russ Karpisek, a mayor, city council or board of trustees will be able to set aside donations, bequests and proceeds from the sale of lots as a perpetual fund.

Income from such a fund may be used for the general care, management, maintenance, improvement, beautifying and welfare of the cemetery. No more than 20 percent of the principal may be used for such purposes in any fiscal year and no more than 40 percent in any period of 10 consecutive fiscal years.

LB500 passed 48-0.



Sen. Russ Karpisek

Government, Military & Veterans Affairs

Extension for convention center financing assistance approved

Localities will have an additional two years to submit convention center projects for state assistance under a bill passed May 18.

LB402, introduced by Lincoln Sen. Bill Avery, extends the deadline from June 1, 2010, to Dec. 31, 2012, for applications made under the Convention Center Facility Assistance Act.

The act permits political subdivi-



Sen. Bill Avery

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sions that have approved general obligation bonds for convention center projects to apply for the remittance of state sales tax revenues generated by entities benefiting from the facility.

LB402 permits bonds approved by more than 50 percent of voters at any statewide or local primary, special, joint or general election.

The bill was returned from final reading May 7 and amended to provide enabling legislation for a non-self executing constitutional amendment passed by Nebraska voters in 2008.

Senators passed the bill on a 49-0 vote.

Senators extend restrictions to protect Capitol views

Senators passed a bill May 20 that extends building height restrictions on the west side of the state Capitol Building.

Building height restrictions are currently enforced in an area around the Capitol called the Environs District, which extends to K, 13th, H and 10th streets. LB450, introduced by Lincoln Sen. Kathy Campbell, extends the west border to Fifth Street, protecting the area between Lincoln's county city building and Rosa Parks Way.

LB450 passed on a 48-0 vote.

Shooting range protections approved

Local noise ordinances have no effect on existing shooting ranges under a bill passed 46-0 by the Legislature May 20.

LB503, introduced by Schuyler

Sen. Chris Lange-meier, prohibits cities, counties and other political subdivisions from regulating existing shooting ranges complying with performance standards through zoning, rules, regulations, ordinances or laws regulating noise or the discharge of a firearm.

Ranges in compliance with state shooting range performance standards, as well as building and safety codes, are permitted to repair or rebuild facilities and expand membership activities within existing areas. Localities still are permitted to regulate the location and construction of new shooting ranges.

The use of eminent domain for infrastructure projects still is permitted, although it cannot be used on property with shooting ranges when the proposed use of the property is for shooting-related activities, recreational activities or private commercial development.

Finally, the bill permits cities, counties and other political subdivisions to limit the operating hours of shooting ranges to between 7 a.m. and 10 p.m.

Bill passed allowing counties to enact ordinances

Senators passed a bill May 18 that allows county boards to enact ordinances and impose penalties for violations.

Currently, counties have the authority to pass only non-binding resolutions.

LB532 allows county ordinances in four areas:

- parking relating to snow re-



Sen. Chris Lange-meier

moval and emergency vehicle access;

- abandoned and junk vehicles not including agricultural equipment;
- graffiti; and
- false alarms.

Under the bill, introduced by Bellevue Sen. Scott Price, counties can assess a fine of up to \$500. The bill stipulates that county ordinances will not be valid inside city limits and that city ordinances over unincorporated areas will preempt county ordinances. The bill requires a public hearing to be held on any proposed ordinance.

LB532 passed on a 45-4 vote.



Sen. Scott Price

Lawmakers approve changes to state employee reimbursement

A bill passed May 20 creates more lenient deadlines and less paperwork for state employees submitting reimbursement requests.

LB533, introduced by Bellevue Sen. Scott Price, directs the state Department of Administrative Services to require receipts for meal expense reimbursement incurred while traveling on state business. The deadline for submitting reimbursement claims is extended to 60 days. Previously, claims were required monthly.

LB533 passed on a 48-0 vote.

Senators approve incidental use of public resources

Lawmakers passed a bill May 20 related to the use of public resources.

LB626, introduced by Wilber Sen.



Sen. Kathy Campbell

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Russ Karpisek, allows the incidental use of public resources by public officials and employees.

The bill:

- allows public resources such as cell phones and computers to be used to communicate unexpected schedule changes or essential personal business;
- allows for the use of public resources in preparing, presenting or disseminating information about ballot questions;
- restricts the use of public resources for communicating about a ballot issue once a legislative body puts an issue on the ballot;
- extends the exemption for incidental use of public resources when it could result in personal financial gain or when used in relation to ballot issues;
- allows public officials and employees to use their official title when campaigning for or against ballot questions on personal time; and
- outlines appropriate use of government vehicles by public officials and employees.

LB626 passed on a 44-2 vote.



Sen. Russ Karpisek

System Act into compliance with federal requirements.

LB195, introduced by Papillion Sen. Tim Gay, revises several definitions relating to the statewide trauma system and requires that:

- basic level trauma centers maintain appropriate equipment for resuscitating and stabilizing pediatric trauma patients;
- general level trauma centers provide trauma-trained physicians and nurses to the emergency department within 30 minutes; and
- comprehensive level trauma centers provide an emergency trauma team available within 15 minutes, 24 hours a day.

In addition, the bill requires that trauma plans be updated every five years instead of every two years and updates the duties of the State Trauma Advisory Board and the state Department of Health and Human Services.

As amended, the bill contains provisions from six other bills.

LB132, introduced by Lincoln Sen. Tony Fulton, makes technical changes to the state Barber Act.

LB220, introduced by Grand Island Sen. Mike Gloor, is a technical cleanup bill relating to pharmacy practice in Nebraska.

LB250, also introduced by Gloor, is a cleanup bill relating to physician assistant practices. Among other provisions, LB250 prohibits a physician from supervising more than four physician assistants at a time and allows physician assistants to sign birth and death certificates.



Sen. Tim Gay

LB367, introduced by Gloor, makes changes to the state's certificate of need requirements. Among other provisions, the bill exempts from certificate of need requirements a transfer or relocation of long-term care beds from one facility to another.

LB451, introduced by Lincoln Sen. Kathy Campbell, updates terms relating to hearing instruments, allows for one member not licensed as an audiologist to serve on the state Board of Hearing Instrument Specialists and permits hearing instrument fitters and dealers to practice under an existing license until it expires.

LB515, introduced by Norfolk Sen. Mike Flood, creates the following new classifications for out-of-hospital emergency care providers: emergency medical responder, advanced emergency medical technician and paramedic. The bill allows for temporary licensure of care providers who have completed educational requirements but have not yet completed the testing requirements for licensure.

LB341, sponsored by Omaha Sen. Tanya Cook, allows nurse practitioners to dispense drugs for the treatment and prevention of tuberculosis that are provided through the state Department of Health and Human Services at no charge to the patient.

LB195 was passed on a 49-0 vote.

HHS clean-up bill clears second round

Senators gave second-round approval May 19 to a bill that would make changes to various aspects of health and human services in Nebraska.

LB288 is the annual clean-up bill for the Health and Human Services Committee, introduced by chairperson Sen. Tim Gay of Papillion on be-

Health & Human Services

Changes to statewide trauma system passed

Senators passed a bill May 18 that brings Nebraska's Statewide Trauma

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half of the state Department of Health and Human Services.

The bill was amended during select file debate to include provisions of LB199, a bill introduced by Platte Center Sen. Arnie Stuthman that would make several changes to the state's child and medical support collection laws. It was introduced at the request of HHS to bring the state's laws into compliance with federal regulation and avoid losing federal funds, Stuthman said.

Among other provisions, the amendment would:

- add independent contractors to the New Hire Reporting Act for purposes of child support collection;
- allow for continuous submission of past due support amounts to the Department of Revenue;
- provide that interest on spousal and medical support payments accrues after a 30-day grace period rather than beginning the day after payments are due;
- allow only support payments that become due while an individual is receiving public assistance to be assignable to the state;
- order cash medical support in cases where health care coverage is unavailable or inaccessible and where one or more of the parties is receiving Title IV-D services; and
- narrow the standard for accessibility to health care coverage from within 60 miles or 60 minutes to within 30 miles or 30 minutes.

Gay supported the amendment, saying the changes are good for the state as well as being federally mandated.

"Long term, this allows for better

enforcement," he said.

The amendment was adopted 39-0.

Omaha Sen. Pete Pirsch offered an amendment regarding the modification of child support.

After a judge orders child support and sets a monthly payment, individuals can seek modification only under limited circumstances, he said.

State law was changed last session to add imprisonment as one of those circumstances, Pirsch said. The change could lead to an individual being jailed for mistreating a child and using that imprisonment as a reason to lower or suspend child support payments, he said, "in effect, victimizing the child once again."

Pirsch's amendment would add incarceration for conviction of a crime victimizing the child who is the subject of the child support order to the list of voluntary income reductions that make an individual ineligible for child support modification.

The amendment was adopted 38-0.

LB288 was advanced to final reading by voice vote.

Among other technical changes, the bill would:

- change re-licensure provisions for public water system operators under the Safe Drinking Water Act;
- update terminology in the Developmental Disabilities Services Act;
- expand disciplinary provisions for pharmacy technicians; and
- delete references to an obsolete nursing pilot program.

The bill was amended on general file to include provisions of six other bills.

LB172, introduced by Gay, would establish a cash fund for recoveries received for the state's costs and attorney fees pursuant to the False

Medicaid Claims Act. The fund would be maintained by the state Department of Justice and administered by the attorney general's office, where the Medicaid fraud unit is housed. Money in the fund would be used to pay salaries and related expenses for the Medicaid fraud unit.

The bill would authorize a \$215,000 one-time transfer in July 2009 from the Health and Human Services Cash Fund to cover one year of operating expenses.

LB173, also introduced by Gay, would allow unused prescription drugs or devices dispensed under a valid prescription to a prisoner or detainee at a state Department of Correctional Services facility, criminal or juvenile detention facility or jail to be returned to the dispensing pharmacy.

Drugs or devices could then be relabeled and re-dispensed to a different prisoner or detainee at another such facility pursuant to a valid prescription. The bill would require that eligible drugs or devices be properly stored and returned in their original unopened packages.

The Jail Standards Board, in consultation with the Board of Pharmacy, would be required to adopt additional rules governing drug return and redistribution.

LB371, introduced by Lincoln Sen. Kathy Campbell, would make changes to the state's Medicaid Reform Council. The bill would require the council to meet quarterly and report to the Legislature annually.

The bill also would:

- require the governor to appoint council members;
- add the chairperson of the Legislature's Health and Human Services Committee as a nonvoting, ex-officio council member; and
- require that HHS's annual

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report include a response to each specific recommendation provided by the council.

LB390, introduced by Lincoln Sen. Colby Coash, would require HHS to apply, no later than June 30, 2009, for a Medicaid waiver to amend the state's reimbursement method for community-based developmental disability services funded through the HHS developmental disabilities division. The bill would change the reimbursement method from an hourly to a daily rate.

The department would be required to change the state's reimbursement method within 60 days of waiver approval.

LB462, introduced by Ewing Sen. Cap Dierks, would eliminate existing informed consent provisions relating to testing for human immunodeficiency virus (HIV). The bill would add new provisions requiring that informed consent include an explanation of HIV infection and the meaning of both positive and negative test results.

In addition, a separate consent for HIV testing would no longer be required, provided that a patient or his or her legal representative signs a general consent form.

LB599, introduced by Omaha Sen. Gwen Howard, would require a health care facility or practitioner, upon written request, to provide a free, itemized billing statement that includes diagnostic codes within 14 days of a request.

Medicaid coverage for feeding disorders approved

An alternative treatment for pediatric feeding disorders may be covered by the state's Medicaid program under a bill given final approval May 18.

Introduced by Papillion Sen. Tim Gay, LB342 requires the state Department of Health and Human Services to seek approval for Medicaid coverage of behavioral or psychological treatment for pediatric feeding disorders prior to any attempt to utilize invasive surgical techniques.

The bill requires HHS by July 1, 2010, to seek an amendment to the state Medicaid plan for coverage of a non-invasive treatment method offered by the Munroe-Meyer Institute at the University of Nebraska.

The bill will sunset Jan. 1, 2015.

LB342 passed 49-0.

Animal therapist licensure bill passed

Nebraska joins a growing number of states that provide for licensure of animal therapists under a bill given final legislative approval May 18.

LB463, introduced by Ewing Sen. Cap Dierks, adds the category of licensed animal therapist to the Veterinary Medicine and Surgery Practice Act. The bill allows those licensed in chiropractics, massage therapy and physical therapy to apply their skills to animals in consultation with licensed veterinarians.

Under the bill, a licensed animal therapist is required to meet training requirements set by the state Department of Health and Human Services. A referral from a licensed veterinarian will be required prior to treatment and therapists will be liable for any damage done to an animal.

The bill was amended to include provisions of three other bills sponsored by Dierks.



Sen. Cap Dierks

LB407 permits civil penalties against an individual who engages in the unauthorized practice of veterinary medicine and surgery. The penalty for a first offense is a fine of at least \$1,000 and any subsequent offenses will incur a fine of at least \$5,000.

LB408 permits licensed health care professionals to consult with any licensed veterinarian to perform collaborative health care tasks on an animal under a veterinarian's care and with a veterinarian's immediate supervision.

LB586 exempts pharmacies and licensed veterinarians from provisions of the Veterinary Drug Distribution Licensing Act.

The bill passed on a vote of 49-0.

Task force membership changed

Lawmakers passed a bill May 20 that changes the membership of the Children's Behavioral Health Task Force.

Sponsored by Papillion Sen. Tim Gay, LB540 adds the state's probation administrator to the task force.

The bill passed on a 48-0 vote.

Dental assistant regulation stalls

Lawmakers agreed to indefinitely postpone a bill May 21 that would authorize the state Department of Health and Human Services, with the recommendation of the Board of Dentistry, to establish rules and regulations for the education and training of dental assistants.

Lincoln Sen. Kathy Campbell, sponsor of LB542, said the department believes it ap-



Sen. Kathy Campbell

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appropriate to regulate dental assistants but needs the Legislature to authorize them to do so.

The attorney general issued an opinion in January stating that the department may list duties for dental assistants but has no statutory authority to regulate those duties, Campbell said.

Wilber Sen. Russ Karpisek offered a motion during select file debate to bracket LB542 until May 29, 2009, noting continued disagreement among dentists, dental hygienists and dental assistants over how best to resolve the issue. The parties involved should be encouraged to reach an agreement before the bill moves forward, he said.

"I think this bill needs to be worked on over the interim," Karpisek said. "There are just too many people involved in this bill who don't like it. I don't think we should go through with it."

Grand Island Sen. Mike Gloor opposed the motion, saying that while consensus had not been reached on how best to proceed, the Legislature should help the board resolve the issue.

"The Board of Dentistry is trying to provide leadership and they are asking us for tools," Gloor said. "It will not be any easier next year."

The motion failed on a 12-27 vote.

Karpisek then offered, and later withdrew, an amendment that would require, rather than authorize, the establishment of rules and regulations for the education and training of dental assistants.

"If this is such a great idea, then we should require that they do it," he said.

Campbell opposed the amendment, saying the board needs flexibility in deciding which duties require

formal education and training.

After extended discussion of the Karpisek amendment, Campbell offered a motion to indefinitely postpone LB542, effectively laying the bill over until next session.

Safe haven bills approved

An omnibus proposal to address issues highlighted by the state's 2008 safe haven law was given final approval May 21.

LB603, introduced by Papillion Sen. Tim Gay on behalf of the Health and Human Services Committee, creates a behavioral health education center to be administered by the University of Nebraska Medical Center.

As amended, the bill also creates a nine-member Children's Behavioral Health Oversight Committee as a special legislative committee.

Senators will be appointed by the Executive Board and will include two members each from the Appropriations, Health and Human Services and Judiciary committees and three at-large members. The committee will be charged with monitoring the implementation and effectiveness of behavioral health services for Nebraska's children and their families.

The committee will meet quarterly with HHS and report to the governor and the Legislature by Dec. 1 of each year.

The bill was amended during select file debate to incorporate four additional bills, resulting in one proposal to provide a comprehensive approach to behavioral health services delivery in Nebraska.

LB136, sponsored by Lincoln Sen. Bill Avery, increases the SCHIP eligibility level from 185 percent of the federal poverty level to 200 percent.

LB346, sponsored by Gay, estab-

lishes a 24-hour, seven-day a week behavioral health hotline in Nebraska to provide screening, assessment and referrals to existing community-based resources. The hotline will be staffed by trained personnel under the direct supervision of a qualified mental health professional. The bill also requires establishment of voluntary post-adoption and post-guardianship case management services and a peer support program for families in crisis.

LB356, sponsored by Fullerton Sen. Annette Dubas, appropriates \$500,000 from the general fund in fiscal year 2009-10 and \$1 million in FY2010-11 to support children's behavioral health services.

LB601, sponsored by Omaha Sen. Jeremy Nordquist, requires HHS to seek by July 1, 2010, either a Medicaid waiver or an amendment to the state's existing Medicaid plan to cover subacute services, both in hospital and non-hospital settings, and secure residential services. The bill also requires continuation of Medicaid coverage for subacute services, regardless of whether a recipient has been ordered by a mental health board to receive such services.

Among other provisions, LB603 also:

- provides funds for two additional psychiatry residents per year in a Nebraska-based program, up to a total of eight residents by 2013;
- requires center-funded residents to participate in rural training;
- focuses behavioral health professional training on telehealth techniques and other innovative means of care delivery;
- analyzes the geographic and demographic availability of behavioral health professionals

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- in Nebraska; and
- develops six interdisciplinary training sites, four of which must be in counties with a population under 50,000.

Lawmakers passed LB603 on a 45-2 vote.

Judiciary

Senators vote to delay new district court judgeship

Lawmakers returned an omnibus courts bill to select file May 20 and adopted an amendment to delay a new judgeship by two years.

LB35, introduced by Omaha Sen. Brad Ashford, would increase various court fees, create a new district court judgeship, expand the jury pool and make several other court related changes. The bill was placed on final reading May 12.

At Ashford's request, senators voted 26-20 to return the bill to select file to consider an amendment that would remove the provision of the bill creating a new Lancaster County District Court judgeship. LB35 was in danger of a governor veto if the judgeship stayed in the bill, Ashford said.

Omaha Sen. Scott Lautenbaugh spoke in favor of the amendment, saying the new judgeship was not worth risking other provisions in the bill.

"This isn't a throw-away bill," he said.

But Omaha Sen. Steve Lathrop said the additional judge was important enough to risk a veto, adding legislation passed this session will

result in even heavier caseloads for the courts.

"The need is acute," he said. "Everything is going to be increasing the demand on the judiciary system and we can't turn our back on them."

Lathrop warned rural area senators that increasing judgeship needs in urban areas will in time be met by reallocating judgeships from rural areas.

As a compromise, Ashford withdrew his amendment and offered a revised one that would delay the new judgeship by two years. Once the bill was re-advanced to final reading, as required by the rules of the Legislature, senators voted 33-10 to return the bill to select file to consider Ashford's second amendment.

Omaha Sen. Brenda Council said the Legislature has a duty to provide necessary resources for the courts.

"There's been no reason or rationale given for this potential veto," she said. "We should not succumb to that kind of lack of reasoning."

But Lathrop supported the two-year delay, calling it a "gracious compromise."

Ashford's amendment was adopted 35-8 and LB35 advanced to final reading on a voice vote.

As amended, LB35 would increase criminal docket fees from \$1 to \$2. The \$290,000 generated by the increase would be directed to the Law Enforcement Training Center in Grand Island. The bill also includes provisions from several other bills.

As amended, LB333, introduced by Ashford, would raise the Supreme Court Automation fee from \$6 to \$8 to fund the automation conversion of the Douglas County District Court and Juvenile Court to the statewide court computer system.

LB273, introduced by Lautenbaugh, would increase fees charged

for county sheriffs to hand-deliver court documents. The measure would raise five types of fees by 20 percent. The measure also includes a provision relating to the recovery of costs in lawsuits involving debt collection. It would allow the plaintiff to recover costs upon a voluntary payment after the action is filed but before a judgment is issued.

LB305, introduced by Council, would add individuals who possess a state identification card to the source list used to create the master jury list. The master jury list is currently comprised of registered voters and registered drivers in the state of Nebraska.

Ashford said the measure would address significant racial disparities in the state's jury pools found by the Nebraska Minority Justice Committee's Minority and Justice Task Force.

LB40, introduced by Norfolk Sen. Mike Flood, would make technical changes to new trial procedures and the Uniform Credentialing Act.

LB46, LB47 and LB118, all introduced by Lexington Sen. John Wightman, would make technical changes relating to probate law.

LB332, introduced by Ashford, would make technical changes to county courts, especially in regards to adoption, foster care and CASA volunteers.

LB344, also introduced by Ashford, would make technical changes to the Civil Legal Services Program, which provides grants to civil legal service providers offering free services to low-income people.

LB352, introduced by Lautenbaugh, would allow commercial couriers to deliver summons.

LB353 and LB354, both introduced by Lautenbaugh, would make technical changes to civil and cross-



Sen. Brad Ashford

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appeal procedures.

LB433, introduced by Lathrop, would expand the district courts' exclusive jurisdiction over misdemeanor cases that arise from the same incident as a charged felony.

Violent crime omnibus bill passed

Lawmakers passed a bill May 21 aimed at reducing violent crime and gang activity.

LB63, introduced by Omaha Sen. Mike Friend, enhances penalties for several existing firearm violations and violent crimes committed with weapons.

The bill increases the criminal penalties for possession of a handgun by a juvenile, illegal transfer of a firearm to a juvenile, possession of a firearm on school grounds, first and second degree assault, first and second degree assault on an officer, shooting at an occupied dwelling, felon in possession of a deadly weapon and use of a deadly weapon to commit a felony.

As amended, the bill creates a state Office of Violence Prevention. The office will include a director and advisory board appointed by the governor and will work with state and local law enforcement to implement programs to reduce violence.

The office also will identify programs and services for people previously convicted of violent crimes to help change their pattern of violent behavior and will be funded through a \$350,000 transfer from the Community Corrections Uniform Data Analysis Cash Fund to the Violence Prevention Cash Fund.

Provisions from two other bills

were amended into LB63 on select file.

LB64, sponsored by Omaha Sen. Gwen Howard, requires the state Department of Education to develop a model dating violence policy by March 1, 2010, to assist school districts in developing policies, which districts must adopt by July 1, 2010.

Each school district will be required to publish and inform parents about its policy and provide staff training.

LB429, sponsored by Sen. Mark Christensen of Imperial, requires that any inmate allowed to participate in a work release program per an arrangement with a school district, educational service unit, community college, state college or university be supervised by an employee of the Department of Corrections while performing their job.

LB63 also:

- clarifies handgun and firearm definitions;
- provides stronger and more comprehensive penalties for graffiti and criminal defacement;
- prohibits domestic violence offenders and subjects of protection orders from possessing firearms;
- adds additional penalties for possession of a deadly weapon during the commission of a felony;
- moves the implementation date for mandatory juvenile placement evaluations to July 1, 2010;
- allows judges to consider an offender's propensity for violence and the danger he or she may pose to public safety when setting conditions of bail;
- allows prosecutors and judges to consider a juvenile offender's gang affiliation when

determining whether they should be prosecuted as adults or juveniles;

- creates offenses for discharge of a firearm from a motor vehicle and illegal recruitment into a criminal organization;
- allows 10 percent of Omaha convention center turnback funds to be directed to the reduction of street and gang violence;
- enhances penalties from Class IV felonies to Class III felonies for possessing a defaced or stolen firearm and defacing a firearm;
- clarifies existing handgun registration and purchase permit requirements regarding social security numbers to comply with federal law; and
- grants judges the authority to order a defendant in a criminal defacement case to clean or repair the defaced property and keep the property clean of graffiti for up to one year. Additionally, the court may require the defendant to undergo counseling.

The bill passed on a 43-4 vote.

Senators approve additional sex offender restrictions

Lawmakers passed a bill May 18 intended to update the state's criminal code dealing with registered sex offenders.

LB97, introduced by Omaha Sen. Scott Lautenbaugh at the request of the state attorney general, creates the offense of unlawful use of the Internet by a registered sex offender and enhances the penalties for crimes



Sen. Mike Friend



Sen. Scott Lautenbaugh

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relating to enticement of a child and the manufacture, possession and trafficking of child pornography. As amended, the bill does not require registered sex offenders to consent to searches of any computer they have used.

Provisions from another bill were amended into LB97.

LB290, sponsored by Platte Center Sen. Arnie Stuthman, prohibits both employees and volunteers who have been convicted of any crime involving moral turpitude, or who have been charged with or indicted for a felony or crime of moral turpitude in a case that has not been resolved, from providing transportation to vulnerable Nebraskans or those under 19 years old through contracts with the state Department of Health and Human Services.

The measure requires individuals to provide two sets of fingerprints to the Nebraska State Patrol, which will be submitted to the FBI for a national criminal history information check. Individuals will pay the cost of fingerprinting and the background check.

Persons providing transportation services on the effective date of the bill will be required to submit to a criminal history information check, and all employees must submit to a check every two years.

LB97 also:

- changes the offense of online enticement using a computer to online enticement using an electronic communication device, which includes PDAs and cell phones;
- expands the definition of visual depiction of sexually explicit conduct to include undeveloped films and videotapes and images on a computer screen;
- eliminates the applicability of the statute of limitations for

the crime of incest;

- describes rules and procedures for introducing child pornography in court and for sharing child pornography evidence with the defense through the discovery process;
- requires judges to inform sex offenders at sentencing that they will be required to disclose pertinent computer and Internet information to law enforcement and that they are prohibited from accessing and using social networking sites;
- adds the crime of enticement by electronic communication device to the list of registered offenses;
- allows for service of search warrants and subpoenas on Internet service providers headquartered in other jurisdictions but doing business in Nebraska;
- requires the addition of driver's licenses, e-mail address, instant messaging screen names and other Internet communication identifiers to the database of registered sex offenders;
- requires written notification by the next working day of any changes to a sex offender's Internet communication identifiers;
- expands the crime of sexual assault on a child to include instances of penetration of a person at least 12 years old, but younger than 16 years old, by a person at least 25 years old;
- provides lesser penalties for possession of child pornography for those younger than 19 years old;
- establishes an affirmative defense for individuals under 18 when the image in question portrays a child at least 15

years old who is alone in an image created knowingly and voluntarily, and the image has not been made available to anyone except the receiver and the individual who generated the image; and

- allows the introduction of evidence of other sexual misconduct or sexual offenses committed by an alleged perpetrator.
- LB97 was passed on a 48-0 vote.

Senators pass new penalties for crime, theft

Lawmakers passed a bill May 20 addressing organized crime, identify theft, forgery and deceptive advertising.

LB155, introduced by Tekamah Sen. Kent Rogert, prohibits the receipt of proceeds or interest in an enterprise or in real property through racketeering activity or the collection of an unlawful debt.



Sen. Kent Rogert

Violators will be guilty of a Class III felony, unless the racketeering activity is punishable as a Class I, IA or IB felony, in which case perpetrators will be guilty of a Class IB felony. Those who benefit from racketeering activities may be sentenced to pay a fine up to three times the gross value gained or three times the gross loss caused, whichever is greater, plus court costs and reasonable investigation and prosecution costs.

The bill also provides that prosecutions of identify theft violations may be started in any county in which an element of the offense occurred, including the county where a victim resides. In addition, the bill strengthens penal-

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ties for subsequent felony offenses of criminal impersonation and adds to criminal impersonation offenses violations of providing false identification information for employment or to the courts and law enforcement.

For the purpose of determining penalties for forgery in the second degree and criminal possession of a forged instrument, the bill permits the total monetary amount of multiple checks forged during a single forgery scheme if the process took place within a 60-day period in one county.

Finally, the bill declares that a person engages in a deceptive trade practice if he or she advertises the price of a good or service in a way intended to mislead or deceive.

An amendment brought by Lincoln Sen. Bill Avery to LB155 on select file would have required that all felons and perpetrators of stalking and false imprisonment misdemeanors in the second degree submit DNA samples to be retained by the state DNA sample bank.

On final reading, senators voted to return the bill to select file to consider a Rogert amendment that would remove the additional DNA requirement. Rogert said the expense of additional DNA collection was prohibitive.

"Unfortunately, we are in a position where we don't have extra cash to spend on things that I think are good public policy," Rogert said.

Rogert's amendment was adopted 46-1 on May 18, and LB155 was passed May 20 on a 47-0 vote.

Interstate regulations for juveniles updated

An updated version of the Interstate Compact for the Placement of Juveniles has been adopted by the passage of a bill May 21.

The compact is an agreement between states to track and supervise juveniles on probation who move across state borders and regulates the return of out-of-state runaways.

LB237, introduced by Omaha Sen. Steve Lathrop, expands the compact's provisions to juveniles who are in other states as a result of adoption, foster care or relative care placement.

LB237 was approved 47-0.

Sex offender registration bill amended, advanced

Lawmakers advanced a bill to final reading May 21 that would change several aspects of the sex offender registry.

LB285, introduced by Omaha Sen. Pete Pirsch, would expand information included in the registry and change the verification process for that information. The bill also would expand registry offenses and outline changes in the duration of registration requirements, penalties for failure to register and public access to the information.

Pirsch said the bill would bring Nebraska into compliance with federal guidelines. Failure to comply by July 27 would result in a 10 percent reduction in federal grant funding for law enforcement, he said.

Omaha Sen. Scott Lautenbaugh offered an amendment on select file that would harmonize the bill's provisions with those of LB97, a bill he

sponsored that changed sex offender registry provisions and was passed by the Legislature May 18.

The amendment, adopted 30-0, would clarify definitions, align effective dates of overlapping provisions of the two bills and provide guidance for registrants on how to comply with the federal Adam Walsh Act, Lautenbaugh said.

As amended on general file, LB285 would not be retroactive and the length of registration would be based solely on the convicted offense, rather than on the offender's risk of recidivism.

Under the bill, offenders would provide:

- all residency, employment and vehicle information;
- travel and immigration documents;
- professional license information;
- computer and Internet identifiers and addresses;
- cell phone information;
- digital fingerprints and palm prints;
- a digital photograph; and
- a DNA sample.

Initial registration would occur at a Nebraska State Patrol facility within three business days after the conviction. The bill stipulates that verification of registry information be done in person. Fifteen-year registrants would verify the information annually, 25-year registrants would verify every six months and lifetime registrants would verify every three months. Status changes would have to be reported to a county sheriff within three business days.

All registrant changes would be included in the public notification process. Violations of registry requirements would be reported to the U.S. Marshal Service and an arrest



Sen. Steve Lathrop



Sen. Pete Pirsch

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warrant would be sought.

Registry offenses would be expanded to include incest, unlawful intrusion, sex-related child abuse, enticement by electronic device, sexual assault of an inmate or protected adult and sexually motivated offenses.

Offenses punishable by imprisonment for less than one year would require a 15-year registration. After 10 years, 15-year registrants would be eligible to apply for "clean record" consideration if they have successfully completed probation, parole or supervised release, as well as a sex offender treatment program.

Offenses punishable by more than one year of imprisonment would require a 25-year registration. Lifetime registration would be required for offenders with prior sex offense convictions, aggravated offenses or a lifetime registration in another jurisdiction.

Senators advanced LB285 to final reading by voice vote.

Senators approve penalties for owners of dangerous dogs

Lawmakers passed a bill May 18 that changes provisions relating to dangerous dogs.

LB494, introduced by Omaha Sen. Beau McCoy, charges the owner of a dangerous dog with a Class I misdemeanor if the dog mutilates a person or causes the loss of a body part.

The bill defines a dangerous dog as one that, according to the records of an animal control authority, has:

- killed a human being;
- inflicted injury on a human being that required medical treatment;
- killed a domestic animal with-

out provocation; or

- been previously determined to be a potentially dangerous dog by an animal control authority and the owner has received notice of such determination, after which the dog inflicts an injury on a human being that does not require medical treatment, injures a domestic animal, or threatens the safety of humans or domestic animals.

As amended during general file debate, a dog also is deemed dangerous if it causes injuries resulting in sutures, surgery or treatment for one or more broken bones.

The bill's increased penalties do not pertain to an owner whose dog has no previous record of committing, or attempting to commit, a violent act. The owner also is exempted if the dog was under the control of a person other than the owner or the owner's family at the time of the attack.

The bill exempts owners from penalties if the attack resulted from abusing, assaulting or tormenting the dog or if the victim was trespassing on the owner's property. Police dogs are exempted from the bill's provisions.

The bill also includes provisions from LB71, introduced by Bellevue Sen. Abbie Cornett, which requires animal care workers who have reason to suspect cases of animal abandonment, neglect or abuse to report instances to the appropriate investigative entities. The measure provides immunity from liability for those who make reports.

LB494 passed on a 48-0 vote.

Death investigation changes approved

Lawmakers gave final approval May 21 to a bill that will provide more training and resources to Nebraska county attorneys who investigate deaths.

LB671, sponsored by Omaha

Sen. Pete Pirsch, makes changes to the Nebraska County Attorney Standards Advisory Council.

The bill grants the council authority to create standardized procedures for death investigations, create and distribute uniform checklists of best practices and establish a region-based state medical examiner system. The bill also increases from four to six the number of county attorneys on the advisory council and allows one member to be a professor of law or forensic science.

Under LB671, every person elected or appointed as a coroner in Nebraska will be required to complete initial death investigation training within one year and annual continuing education.

The bill passed on a 47-0 vote.



Sen. Pete Pirsch

Natural Resources

NRD bonding bill passes

The Papio-Missouri Natural Resources District is authorized to issue bonds by a bill passed by the Legislature May 18.

LB160, introduced by Papillion Sen. Tim Gay, permits NRDs containing a city of the metropolitan class to issue bonds for flood protection and water quality enhancement projects.

Two-thirds approval from an NRD board is required before the issuance of bonds, which will be financed by up to one cent of an NRD's existing levy authority. Bond levies exceeding one cent require voter approval and the



Sen. Beau McCoy

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authority to issue bonds ceases on Dec. 31, 2019.

Projects including a permanent pool exceeding 20 surface acres must offer public access. County boards can block projects greater than 20 surface acres proposed within their zoning jurisdiction by passing a resolution at a public hearing held within 90 days after the NRD provides notice of the project.

While bonds can be used for low-impact development, flood plain buyout, dams, reservoirs and levees, proceeds from bonds cannot be used to fund combined sewer separation projects in Omaha. In addition, bonding cannot be used for projects including reservoirs or water quality basins greater than 400 surface acres.

LB160 passed on a 36-12 vote.

Biotech development plan OK'd

A bill passed May 21 charges the Natural Resources Committee with formulating a strategic plan for the development of biotechnology in Nebraska.

Introduced by Fullerton Sen. Annette Dubas, LB246 directs the committee to develop a plan by June 30, 2010, that includes a review and assessment of the state's biotechnology economic potential and strategies for development to create related wealth and jobs.

The bill defines biotechnology as a technological application that uses biological systems, living organisms or their derivatives to make or modify products or processes.

The committee must commission a nonprofit corporation to provide

research, analysis and recommendations for the plan. Although the bill carries a \$100,000 appropriation for the Biotechnology Development Cash Fund, the transfer will not be made until the selected nonprofit entity provides a matching \$100,000 to fund the research.

LB246 was passed 37-5, and the accompanying appropriation was approved 33-10.

C-BED eligibility amended in wind energy bill

Eligibility for community-based energy development (C-BED) projects would be changed under an amendment to a bill addressing wind energy adopted May 19.

LB561, introduced by Omaha Sen. Steve Lathrop, would permit public power districts to limit eminent domain powers in order to acquire wind power generation facilities.

As amended on general file, the bill would extend a provision offered only to small energy producers exempting them from a Nebraska Power Review Board requirement to approve only generators that can most economically and feasibly supply electricity. Public power districts and other electric utilities could submit for approval larger renewable energy facilities generating more than 10,000 kilowatts of electricity if the total production does not exceed 10 percent of the utility's total energy sales and its governing body has held at least one advertised public hearing.

C-BED projects could apply as long as the appropriate utility holds a public hearing and the electricity

generated will be sold exclusively to the utility for at least 20 years.

On select file, Schuyler Sen. Chris Langemeier offered an amendment to change the eligibility requirements for a C-BED project. His amendment would subtract financing for the construction of a project from gross power purchase agreement payments if Nebraskans have at least 33 percent equity ownership in the C-BED project.

Omaha Sen. Beau McCoy said the amendment would ensure that a third of the benefits realized from a project are directed to Nebraskans.

Malcolm Sen. Ken Haar also supported the Langemeier amendment, saying it is a compromise that would permit greater use of C-BED and move the state forward in wind development.

"Wind is a cash crop, and this will help us combine that wind," Haar said.

The Langemeier amendment was adopted 38-0, and LB561 advanced to final reading on a voice vote.

Wind lease standards adopted

Wind lease agreements will expire after 40 years under a bill passed 48-0 by the Legislature May 18.

LB568, introduced by Fullerton Sen. Annette Dubas, limits the duration of wind agreements to 40 years. Contracts will terminate if development has not started within 10 years. Parties can mutually agree to extend their arrangements.

The bill requires that leases include descriptions of intended developments for a property and plans for decommissioning wind turbines. In addition, the bill mandates that wind rights not be separated from the land from which the wind benefits are derived.



Sen. Annette Dubas



Sen. Steve Lathrop

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Retirement

Retirement contribution rate increased for school employees

The contribution rate of school employees to their retirement systems will increase temporarily under a bill given final approval May 18.

LB187, introduced by the Nebraska Retirement Systems Committee, will increase the contribution rate for both the state school employees' retirement system and the Omaha school employees' retirement system.

The contribution rate for employees of the state school system will increase 1 percent for five years beginning Sept. 1, 2009. The rate will increase from 7.28 percent to 8.28 percent of compensation. The employer match, set at 101 percent of the employee contribution, will also increase, from 7.35 percent to 8.36 percent.

Employees of the Omaha school system also will increase their contribution rate 1 percent, from 7.03 percent to 8.03 percent, beginning Sept. 1, 2009. The employer match is set at 100 percent of the employee contribution rate or an amount necessary to maintain the solvency of the system, and will increase accordingly.

The state contribution rate for both retirement systems will increase from 0.7 percent to 1 percent for five years beginning July 1, 2009.

LB187 passed on a 49-0 vote.

Revenue

Wood, corn and mineral oil sales tax exemptions pass

Farmers burning wood and corn for fuel or applying mineral oil to control dust can take advantage of

sales tax exemptions offered by a bill approved May 21.

Introduced by Lexington Sen. John Wightman, LB9 would exempt from sales and use tax purchases of wood and corn when more than half of the purchase is intended to fuel irrigation, farming and electricity generation or is used by a hospital.

A sales and use tax exemption also is created for mineral oil applied to grain as a dust suppressant.

LB9 was passed 44-3.



Sen. John Wightman

Deadline extended for county capital improvement projects

Counties have twice as much time to bond for capital improvement projects under a bill passed 48-0 by the Legislature May 20.

LB294, introduced by Lincoln Sen. Kathy Campbell, extends from 10 to 20 years the time frame during which counties may levy taxes financing bonds for capital improvement projects.



Sen. Kathy Campbell

Nonprofit health clinic sales tax exemption passes

Health care clinics owned by a single nonprofit hospital are exempt from sales and use taxes under a bill passed by the Legislature 42-0 on May 21.

LB420, introduced by Kearney Sen. Galen Hadley, permits nonprofit



Sen. Galen Hadley

health clinics and health care practitioner facilities owned by at least one nonprofit hospital to claim a sales and use tax exemption. Previous statute had required that clinics be owned by two or more hospitals or parent corporations to be eligible.

Nonprofit health clinics receiving federal funds through the U.S. Public Health Service and serving medically underserved populations also can claim the sales and use tax exemption.

Research, development tax credits approved

Senators gave final approval to greater tax credits for research and development May 21.

LB555, introduced by Omaha Sen. Tom White, increases the research tax credit provided by the Nebraska Advantage Research and Development Act to 35 percent if the research is performed at a college or university-owned facility and qualifies under the Federal Research and Development Tax Credit.

The bill passed 40-4.



Sen. Tom White

Urban Affairs

Omaha land reutilization authority granted

Metropolitan class cities are authorized to establish a land reutilization authority under a bill passed May 20.

Currently, counties have jurisdiction to dispose of tax-delinquent land. Under LB360, introduced by Omaha Sen. Tanya Cook, metro-

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politan class cities also are granted land reutilization authority.

Under the bill, a county authority will continue to exist after creation of a municipal land reutilization authority and will retain jurisdiction over property located outside of city limits.

A newly created municipal land reutilization authority also will be allowed to enter into agreements with any county under the Interlocal Cooperation Act.

LB360 passed 48-0.

Senators approve increased handicapped parking penalties

A bill passed May 20 increases penalties for illegally parking in handicapped-designated spaces.

Introduced by Sen. Mike Friend of Omaha, LB524 increases the penalty for an initial infraction from \$100 to \$150. Penalties for second and third infractions incurred within a one-year period increase to \$300 and \$500 respectively. Previous penalties were \$200 for a second offense and \$300 for a third offense.

LB524 passed on a 48-0 vote.

Replacement rate for natural gas companies advances

Natural gas companies replacing infrastructure due to regulations or public works could recover their losses through a process authorized under a bill advanced to select file May 21.

LB658, introduced by Omaha



Sen. Tanya Cook

Sen. Mike Friend, would permit investor-owned natural gas providers to institute an infrastructure system replacement mechanism rate between general rate reviews to pay for infrastructure replacements undertaken to comply with state or federal safety requirements or to accommodate the construction of a road or another public works project.

The bill would permit natural gas utilities to recoup these costs without pursuing a full-scale rate review by the Public Service Commission. Instead, providers could file a petition and proposed rate schedule with the commission to establish a replacement rate to pay for eligible infrastructure system replacements.

The bill defines eligible infrastructure system replacements as natural gas utility plant projects that:

- do not increase revenues by directly connecting the infrastructure replacements to new customers;
- are in service and are required to be used; and
- were not included in the utility's rate base in the most recent general rate case.

Eligible projects include but are not limited to new mains, valves, service lines, regulator stations and vaults.

Utilities could begin submitting petitions and proposed rate schedules beginning Jan. 1, 2010. Approved replacement rates must produce revenues of at least \$1 million or 0.5 percent of the utility's base revenue, whichever is less. Rates may not exceed 10 percent of the utility's base revenue.

Under the bill, the replacement rate would be charged as a monthly fixed charge, as opposed to volumetric consumption, and could not increase more than 50 cents per residential

customer.

After a year, the rate may be adjusted to recover or refund revenues, and the rate must be reset to zero when the commission adopts a new general rate that incorporates costs for infrastructure replacements.

The Urban Affairs Committee offered an amendment that would add new requirements for information submitted with a utility's petition, adjust the commission's process of reviewing replacement rates to better reflect existing protocol and change the deadline for the commission's final order on replacement rates from 120 days to 90 days.

For utilities that pursue rate adjustments via municipal negotiation, the amendment would add a protocol for obtaining replacement rates that resembles their general rate filing procedures with a shorter timeline.

Friend said the bill would permit jurisdictional utilities to recover infrastructure replacement costs without a full rate review, which he said can cost as much as \$2 million and lead to "sticker shock" for ratepayers.

"When you have a full-blown rate review, that cost is transferred to the ratepayer," Friend said. "Ratepayers don't like to be hit with a 12 to 15 percent increase."

LB658 would provide utilities with a more rapid response time to address replacement costs, Friend said, adding that the bill would expand the reach of natural gas in the state and allow utilities to be more efficient.

Tekamah Sen. Kent Rogert spoke in support of LB658. He said the bill would help develop natural gas service and provide for better maintenance of pipelines in rural parts of the state.

The committee amendment was adopted 31-0 and LB658 advanced to select file 34-0. ■

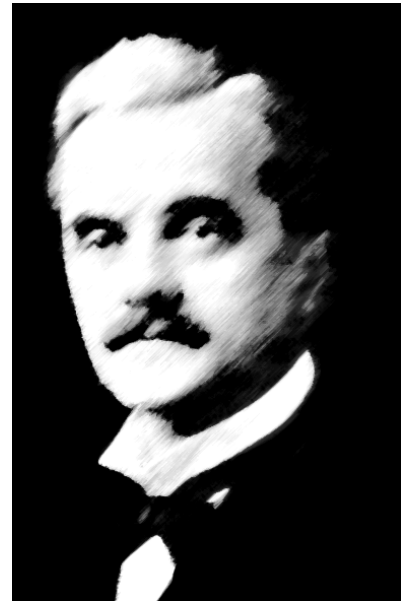


Sen. Mike Friend

HISTORY OF A UNICAMERAL

“There is no more reason for a two-house legislature in any of our states than there is for a bank to have two boards of directors or for a city to have two separate boards of aldermen. Indeed there is no more use for a two-branch legislature than there is for two governors.”

— George Norris



Nebraska's legislature is unique among all state legislatures in the nation because it has a single house. It wasn't always a unicameral, however. The state had a senate and a house of representatives for 68 years before Nebraskans voted to eliminate half of their state legislature in 1934.

The change did not come easily. Nebraskans rejected similar proposals several times before interest in reining in state spending heightened because of the Great Depression. The cause was also helped by a zealous petition campaign led by the prestigious U.S. Sen. George W. Norris and the fact that two other popular proposals were on the ballot that year: local option on prohibition and legalized pari-mutuel betting. The vote was 286,086 for and 193,152 against a unicameral system.

Norris, a “New Deal Republican” who settled in McCook, wore out two sets of automobile tires while he drove throughout the state campaigning for the measure. He said the two-house system was outdated, inefficient and unnecessary.

The bicameral system was modeled after the British Parliament, Norris said, which is made up of the House of Commons, with representatives elected by the people, and the House of Lords, with its aristocratic members appointed by the king.

The one-house system differs little from most city, county and school district governing bodies. All Canadian provinces operate with single-house systems.

Implementation of the unicameral legislature in 1937 cut government costs for obvious reasons. Legislative membership went from 133 in the bicameral to 43 in the new single house – nearly a 70 percent reduction.

Also, the one-house system was more efficient than its predecessor. The number of committees was pared down from 61 to 18, and 581 bills were introduced in 1937 as opposed to twice that many the previous session. The last bicameral session in 1935 ran 110 days, passed 192 bills and cost \$202,593. The first unicameral session two years later ran 98 days, passed 214 bills and cost \$103,445.

A common question regarding unicameralism was how to preserve checks and balances to prevent abuse of power. Norris argued there would be checks and balances without a second house. The Supreme Court and the governor would rule on or veto measures deemed improper, he said.

More importantly, the people would serve as a check upon the possible abuse of power by their elected officials with the right to vote and petition, Norris said. The Nebraska Unicameral would have easy-to-follow procedures and extend greater privileges to the press to allow for greater public awareness.

In a one-house legislature, Norris said, no actions could be concealed as was commonly done in the conference committee of bicameral legislatures. Conference committees resolve differences when bills passed in both houses vary in content.

Another unique aspect of Nebraska's legislature is its nonpartisanship, which was included in the successful 1934 unicameral amendment. A nonpartisan body allows senators to concentrate on local interests without being influenced by national party lines. National party lines, Norris argued, often have little to do with local government. A voter who votes according to party lines might vote for a state candidate who disagrees with him or her on matters over which the senator will have jurisdiction.

Movements for unicameralism have existed throughout the United States since the nation's independence. There were several pro-unicameral movements in the state before one finally succeeded. The same year Nebraska's unicameral legislature began operating, attempts in 21 other states to become one-house legislatures failed. Many states looked to Nebraska as a model of an effective one-house legislature. Those states included California, Connecticut, Florida, Hawaii, Illinois, Kansas, Kentucky, Minnesota, Montana, New York, Oklahoma, Rhode Island, Tennessee and Texas. Despite the interest unicameralism has received over the years, Nebraska remains the only state with a unicameral legislature.

CITIZEN VIEWS of the CAPITOL



photo by Melissa Sprague, used with permission

Named one of America's favorite buildings by the American Institute of Architects, Nebraska's State Capitol Building is a favorite subject among photographers. Its dramatic architecture provides many opportunities for closer study. The Unicameral Update invited members of the public to share their own Capitol photographs with our readers. This color photo series is available on the Unicameral Update online at <http://unicameralupdate.blogspot.com>.

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